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December 19, 2002

02-384

VIA **HAND** DELIVERY

Marlene H. Dortch
Secretary
Office of the Secretary
Federal Communications Commission
Room TW-B-204
445 Twelfth Street, S.W.
Washington, D.C. 20554

REDACTED - For Public Inspection

Re: Application by Verizon Mmland Inc.. Verizon Washineton, D.C. Inc.. Verizon West Virginia Inc.. Bell Atlantic Communications. Inc. (d/b/a Verizon **Long** Distance). " E X Lone. Distance Company (d/b/a Verizon Enterprise Solutions). Verizon Global Networks Inc.. and Verizon Select Services Inc., for Authorization To Provide In-Region, InterLATA Services in Mmland. Washington. D.C.. and West Virginia

Dear Ms. Dortch:

This is the cover letter for the Application by Verizon Maryland Inc., Verizon Washington, D.C. Inc., Verizon West Virginia Inc., Bell Atlantic Communications, Inc. (d/b/a Verizon Long Distance), " E X Long Distance Company **(d/b/a** Verizon Enterprise Solutions), Verizon Global Networks Inc., and Verizon Select Services Inc., for Authorization To Provide In-Region, InterLATA Services in Maryland, Washington, D.C., and West Virginia, for Authorization To Provide In-Region, InterLATA Services in Virginia ("the Application").

This Application contains confidential information. We are filing confidential and redacted versions of the Application.

1. The Application consists of (a) a stand-alone document entitled Application by Verizon Maryland, Verizon Washington, D.C.. and Verizon West Virginia for Authorization To Provide In-

Region, InterLATA Services in Maryland, Washington, D.C.. and West Virginia ("the Brief'), and (b) supporting documentation. The supporting documentation is organized as follows:

a. Appendix A includes declarations and attachments thereto in support of the Brief;

b. Appendices B-Maryland through R-Maryland consist of various materials including selected portions of the Public Service Commission of Maryland proceedings, third-party OSS evaluations, Carrier-to-Carrier Guidelines, interconnection agreements, and additional supporting documents;

c. Appendices B-District of Columbia through K-District of Columbia consist of various materials including selected portions of the Public Service Commission of the District **of** Columbia proceedings, third-party OSS evaluations, Carrier-to-Carrier Guidelines, interconnection agreements, and additional supporting documents;

d. Appendices B-West Virginia through K-West Virginia consist of various materials including selected portions of the Public Service Commission of West Virginia proceedings, third-party OSS evaluations, Carrier-to-Carrier Guidelines, interconnection agreements, and additional supporting documents;

e. Appendices R-Maryland, K-District of Columbia, and K-West Virginia consist of Carrier-to-Carrier reports, Trend Reports, and Summary Measurements Reports.

2. Specifically, we are herewith submitting for filing:

a. One original of only the portions of the Application that contain confidential information (in paper form, except for certain materials that are being filed only on CD-ROM);

b. One original of a redacted Application (in paper form);

c. Two copies **of** the redacted Application (in paper form);

d. Three CD-ROM sets containing the Brief and the supporting-documentation portion of the redacted Application; and

e. Four additional copies of the redacted Application (partly in paper form and partly on CD-ROM, in accordance with the Commission's filing requirements), so that each Commissioner may receive a copy.

3. We are also tendering to you certain copies **of** this letter and of portions of the Application for date-stamping purposes. Please date-stamp and return these materials.

4. Under separate cover, we are submitting copies (redacted as appropriate) **of** the Application to Ms. Janice Myles, Policy and Program Planning Division, Wireline Competition Bureau, Federal Communications Commission, Room 5-C-327, 445 12th Street, SW, Washington, D.C. **20554.** We are also submitting copies (redacted as appropriate) to the Department of Justice, to the **Public Service Commission of Maryland,** the **Public Service Commission of the District of Columbia,** and the **Public Service Commission of West Virginia,** and **to** Qualex (the Commission's copy contractor).

Thank you for your assistance in this matter. **If** you have any questions, please call me at 703-351-3860 or Steven McPherson at 703-351-3083.

Very truly yours,

Michael Glover /el

Michael E. Glover

Encs.

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of Application by Verizon Maryland Inc., Verizon Washington, D.C. Inc., Verizon West Virginia Inc., Bell Atlantic Communications, Inc. (d/b/a Verizon Long Distance), [illegible] E X Long Distance Company (d/b/a Verizon Enterprise Solutions), Verizon Global Networks Inc., and Verizon Select Services Inc., for Authorization To Provide In-Region, InterLATA Services in Maryland, Washington, D.C., and West Virginia	)	WC Docket No. 02-__

APPLICATION BY VERIZON MARYLAND, VERIZON WASHINGTON, D.C., AND VERIZON WEST VIRGINIA FOR AUTHORIZATION TO PROVIDE IN-REGION, WTERLATA SERVICES IN MARYLAND. WASHINGTON. D.C., AND WEST VIRGINIA

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December 19,2002

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INTRODUCTION AND SUMMARY

Three years ago, the Commission granted Verizon's first long distance application, for the state of New York. Since then, the Commission has approved Verizon's applications to provide long distance service in ten additional states. This Application contains Verizon's request to provide long distance service in its three remaining jurisdictions — Maryland, Washington, D.C., and West Virginia. Local markets are open and the checklist is satisfied in these three jurisdictions, just as they were in Verizon's other states. Consumers in these three jurisdictions are accordingly entitled to the significant benefits that experience has shown will follow from Verizon's long distance entry. Verizon's Application to provide interLATA services originating in Maryland, Washington, D.C., and West Virginia should be granted.

This Application presents a clear-cut case for approval because Verizon has taken the same extensive steps to open its local markets in Maryland, the District, and West Virginia as it has taken in ***eleven*** other Verizon states — which contain nearly *90 percent* of Verizon's access lines — where the Commission has found, including as recently as seven weeks ago, that Verizon satisfies the requirements of the 1996 Act in all respects. Verizon uses the same processes and procedures to provide the various checklist items in each of the three jurisdictions as it uses in its 271-approved states — Virginia, Pennsylvania, Delaware, New Jersey, New York, Massachusetts, Rhode Island, Vermont, Maine, New Hampshire, and Connecticut.

As in Verizon's 271-approved states, competitors in Maryland, the District, and West Virginia also are using the various checklist items in commercial volumes to enter the local market through all three entry paths available under the Act. In all three jurisdictions, the vast majority of competitive lines are being served using facilities that competitors have deployed themselves. But competitors also are relying heavily on resale and, to a lesser extent, on unbundled network element platforms.

At the same time, Verizon's performance in providing the various checklist items has been and continues to be excellent across the board. Verizon measures its performance in Maryland, the District, and West Virginia under comprehensive performance measurements adopted by the public service commissions in those jurisdictions. These measurements are, with a few minor exceptions, the same as those used in Verizon's 271-approved states. From August through October 2002 — the most recent three-month period for which data are available — Verizon completed on time at least 97 percent, and in most instances 98 or 99 percent or more, of CLECs' interconnection trunks, physical collocation arrangements, unbundled loops (including stand-alone loops, hot cuts, platforms, and DSL-capable loops), and non-dispatch resale orders in all three jurisdictions. And, while in some cases the volumes in the District and West Virginia have been too small to provide meaningful results, Verizon's performance also has continued to be strong in Virginia, where the systems and processes are the same, but where volumes are higher.

Verizon's real-world experience also is confirmed by an independent third-party test. Verizon's systems were tested by KPMG in connection with the Virginia application, where the Commission found that such testing provided "meaningful evidence" of Verizon's OSS readiness. In addition, PricewaterhouseCoopers ("PwC") has concluded that Verizon's systems in Maryland, the District, and West Virginia are the same as those used in Virginia. Thus, consistent with this Commission's prior holdings, the findings of KPMG in Virginia apply with equal force in each of the three jurisdictions at issue here.

Just as Verizon's performance in Maryland, the District, and West Virginia clearly satisfies the requirements of the Act, so do its wholesale rates. Both in Maryland and in West Virginia, the loop and non-loop rates satisfy the Commission's established benchmark standard when compared to the rates recently adopted in New York. The loop rates in West Virginia also were found TELFUC-compliant by the West Virginia PSC, and must be approved for that separate and independent reason as well. Moreover, in both states, the rates for non-recurring charges and those elements established by this Commission's UNE Remand Order either are comparable to or less than the New York rates, are the New York rates, and/or have otherwise been set in a TELRIC-compliant manner. Those rates must therefore be approved consistent with well-settled precedent.

In the District of Columbia, the PSC has recently completed a pricing proceeding in which it adopted UNE rates that are substantially below the range that any reasonable application of TELRIC principles would produce. Verizon accordingly intends to petition the PSC to reconsider its decision. Pursuant to District of Columbia law, Verizon's petition will trigger a stay of the new rates pending action by the PSC. In the interim while the rates are stayed, Verizon will offer UNE rates in the District that in all cases are the lower of the rates in effect in the District prior to the PSC's recent decision, or the comparable rates recently adopted in New York.

Verizon also is or will be subject to performance assurance plans in Maryland, the District, and West Virginia that parallel the plans in Verizon's 271-approved states, which the Commission found provide "strong assurance that the local market will remain open after [Verizon] receives section 271 authorization." The remedy payments at risk annually in each of the three jurisdictions are proportionately the same as the remedy amounts at risk under the plans in Verizon's 271-approved states.

Finally, as the Commission has recognized, Verizon's long distance entry also will produce enormous benefits. Indeed, actual experience proves that Verizon's entry will both promote local competition and create significant benefits for customers of long distance service.

Local competition has increased dramatically in those in-region states where Verizon and other Bell companies have been authorized to provide long distance service. And one independent consumer group has estimated that the increase in ***long distance*** competition **as** a result **of** Verizon's entry is already saving consumers in New York up to nearly ***$300 millionper year.***

By any measure, therefore, Verizon's entry into the long distance market in other states has greatly enhanced both local and long distance competition. Consumers in Maryland, the District, and West Virginia — where Verizon's local markets are open to the same degree as in these other states — are now entitled to receive these same benefits.

The Commission should grant this Application.

I. VERIZON'S APPLICATION SATISFIES THE REQUIREMENTS OF SECTION 271(c)(1)(A).

Verizon meets the requirements to file this Application under so-called "Track A." See 47 U.S.C. § 271(c)(1)(A). Whether they are viewed collectively or individually, competitors in Maryland, Washington, D.C., and West Virginia are providing service predominantly over their own facilities to both residential and business subscribers. In all three jurisdictions, the vast majority of competitive lines are being served using facilities that competitors have deployed themselves. But competitors also are relying heavily **on** resale and, to a lesser extent, on unbundled network element platforms.

Maryland. There is extensive local competition in Maryland. **As** of September 2002, competitors served more than 533,000 lines in the state. See Torre Decl. Att. 1 ¶ 6, Table 1.[1] The vast majority of this competition is facilities-based. On a collective basis, even by the most conservative of estimates, competing carriers in Maryland served at least 382,000 lines as of September 2002 either wholly or partially over facilities they deployed themselves (including in all cases their **own** switches). See Torre Decl. Att. 1 ¶ 6, Table 1. **As of** that same date, competing carriers served approximately 39,000 *residential* lines over facilities they have deployed themselves. See id. In addition, **through** September, competing carriers served

[1] Although CLECs argued during the Maryland state proceedings that, according to the Commission's local competition data, CLEC market share in Maryland was lower than in all but two other states, that is simply not true. The Commission's latest local competition data show that CLEC market share in Maryland is higher than in four other states (Alabama, Louisiana, Mississippi, **South** Carolina); is the same as in two other states with section 271 authority (New Jersey and North Carolina); and is likely higher than in **15** additional states for which CLEC share is not reported to protect confidentiality (all of which are sparsely populated, heavily rural states). See FCC, Industry Analysis and Technology Division, Wireline Competition Bureau, Local Telephone Competition: Status **as** of June 30, 2002, Table 6 (Dec. 2002). In any event, as the Commission has repeatedly held, the level of CLEC market share is irrelevant under section 271. See Georgia/Louisiana Order ¶ **14;** see also, e.g., Massachusetts Order ¶ 235; Kansas/Oklahoma Order ¶ 268; Arkansas/Missouri Order ¶ 126; Pennsylvania Order ¶ 126; Texas Order ¶ 419; New York Order ¶ **426.**

approximately 41,000 lines — including approximately 9,300 ***residential*** lines — through unbundled network element platforms. See id.[2]

Facilities-based competition also has been growing rapidly in Maryland. Verizon data show that, between September 2001 and September 2002, competitors in Maryland added approximately 85,000 lines either wholly or partially over facilities they deployed themselves (including in all cases their own switches), an increase of approximately 28 percent. See Br. Att. **A,** Ex. 4. This represents more than twice the number of lines that competitors added using unbundled network element platforms during that same period. See id.

As these facts make clear, competitors in Maryland serve several times the number of lines through their own facilities as through resale. See Torre Decl. **Att.** 1 ¶ 6, Table 1. Overall, therefore, competing carriers in Maryland unquestionably are providing service to business and residential subscribers predominantly over their own facilities.

Moreover, just **as** this is true overall, it also is true of individual carriers. For example, as detailed in the accompanying declaration, looking just at three of the largest carriers in Maryland, they too are providing service to business and residential subscribers predominantly over their own facilities. Both Comcast and Starpower provide service to both business and residential customers predominantly over facilities they have deployed themselves (including in all cases their own local switches). See Torre Decl. **Att.** 1 ¶¶ 25-28.[3] In addition, Z-Tel provides

[2] As the Commission previously has held, lines served through unbundled network elements (including pre-assembled platforms of such elements) qualify as a competitor's own facilities for purposes of the Track **A** requirements. See Michigan Order ¶ **101;** Kansas/Oklahoma Order ¶¶ 41-42.

[3] Comcast's interconnection agreement with Verizon was approved in May **2001.** See App. P-MD, Tab **3;** Starpower's interconnection agreement with Verizon was approved in August 1998. See App. P-MD, Tab **4.** Cavalier also provides service to business and residential subscribers predominantly over facilities it **has** deployed itself, but it currently does not have an approved interconnection agreement with Verizon. See Torre Decl. **Att.** 1 ¶ 26.

services to both residential and business customers **through** UNE platforms. See Torre Decl. Att. 1 ¶ 29.[4]

Washineton. D.C. On a collective basis, even by the most conservative **of** estimates, competing carriers in Washington, D.C. served at least 193,000 lines as of September 2002 either wholly or partially over facilities they deployed themselves (including in all cases their own switches). **See** Torre Decl. Att. **2** ¶ *6*, Table 1. As of that same date, competitors served approximately 20,000 ***residential*** lines over facilities they have deployed themselves. **See id.** Competitors serve several times as many lines over their own facilities as **through** resale in the District. See id. In addition, through September, competing carriers served approximately 5,400 lines — including approximately 1,700 ***residential*** lines — **through** unbundled network element platforms. **See id.** Overall, therefore, competing carriers in the District unquestionably are providing service to business and residential subscribers predominantly over their own facilities.

Moreover, just **as** this is true overall, it also is true of individual carriers. For example, as detailed in the accompanying declaration, looking just at two of the largest carriers in the District, they too are providing service to business and residential subscribers predominantly over their own facilities. Starpower provides service to both business and residential customers predominantly over facilities it has deployed itself (including in all cases its own local switches). See id. **Att.** 2 ¶¶ **23-24**[5] WorldCom **uses** facilities it has deployed itself to serve business

[4] Z-Tel's interconnection agreement with Verizon was approved in October 2000. See App. P-MD, Tab ***5.***

[5] Starpower's interconnection agreement with Verizon was approved in July 1998. See App. I-DC, Tab **2.**

customers in the District, and UNE platforms to serve residential customers. See Torre Decl. Att. *2* ¶ 26.[6]

West Virginia. On a collective basis, even by the most conservative of estimates, competing carriers in West Virginia served approximately 32,000 lines as of September **2002** either wholly or partially over facilities they deployed themselves (including in all cases their own switches), plus approximately 1,800 additional lines through unbundled network element platforms. See Torre Decl. Att. **3** ¶ *6*, Table 1. As of that same date, competing carriers in West Virginia served approximately 140 ***residential*** lines using either facilities they deployed themselves **or** platforms. See id. Competitors serve several times the number of lines through their own facilities as through resale in West Virginia. See id. Overall, therefore, competing carriers in West Virginia unquestionably are providing service to business and residential subscribers predominantly over their own facilities.

Moreover, just as this is true overall, it also is true of individual carriers. For example, as detailed in the accompanying declaration, looking just at **two** of the largest carriers in West Virginia, they too are providing service to business and residential subscribers predominantly over their **own** facilities? eLEC provides local services to business and residential customers in West Virginia primarily through unbundled network element platforms. See Torre Decl. Att. **3**

[6] WorldCom's interconnection agreement with Verizon was approved in September 1997. See App. I-DC, Tab 3.

[7] The number of lines served individually by each of these carriers exceeds by a wide margin what the Commission has previously found to be more than a ***de minimis*** number of lines. See, e.g., Vermont Order ¶ 11 (finding that SoVerNet — which admitted in its comments that it served 78 local residential lines in Vermont using its own facilities — "serves more than **a** ***de minimis*** number of end **users** predominantly over its own facilities and represents **an** 'actual commercial alternative' to Verizon").

¶ 23.8 StratusWave provides service to business customers in West Virginia using facilities it has deployed itself, and to residential customers using resale. See Torre Decl. Att. 3 ¶ 25.[9] In addition to these two carriers that each independently satisfy the requirements of Track A, the Commission has held that Track A may be satisfied by combining a competitor that provides predominantly facilities-based service to residential customers with a competitor that provides predominantly facilities-based service to business customers." In West Virginia, FiberNet provides predominantly facilities-based service to business customers, and Z-Tel provides predominantly facilities-based service to residential customers. See Torre Decl. Att. **3** ¶¶ 26, 28.[11]

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[8] eLEC's interconnection agreement with Verizon was approved in September 2000. See App. I-WV, Tab 2.

[9] StratusWave's interconnection agreement with Verizon was approved in September 1999. See App. I-WV, Tab **5.** As the Commission has held, Track A is satisfied if a "predominantly" facilities-based carrier is serving business customers over its own facilities and residential customers through resale of another carrier's service. See Second Louisiana Order ¶ 48 ("[I]t does not appear to be consistent with congressional intent to exclude a BOC from the in-region, interLATA market solely because the competitors' service to residential customers is wholly through resale."); see also Addendum to the Evaluation of the United States Department of Justice at 3, Application of SBC Communications Inc.. et al., Pursuant to Section 271 of the Telecommunications Act, as Amended. To Provide In-Region. InterLATA Services in Oklahoma, CC Docket No. 97-121 (FCC filed May 21,1997) ("[I]t does not matter whether the competitor reaches one class of customers — e.g., residential — only through resale, provided that the competitor's local exchange services **as** a whole are provided 'predominantly' over its own facilities.").

[10] See Second Louisiana Order ¶ 46 n.126 ("[W]hen a BOC relies upon more than one competing provider to satisfy [Track A], each such carrier need not provide service to both residential and business customers. The requirements of [Track A] are met if multiple carriers collectively serve residential and business customers.") (citing Michigan Order **¶ 82).**

[11] FiberNet's interconnection agreement with Verizon was approved in July 1999. See App. I-WV, Tab 3; Z-Tel's interconnection agreement with Venzon was approved in January 2002. See App. I-WV, Tab ***6.***

II. **VERIZON** SATISFIES **ALL** REQUIREMENTS **OF** THE COMPETITIVE CHECKLIST **IN MARYLAND,** WASHINGTON, D.C., **AND** WEST VIRGINIA.

Verizon unquestionably satisfies the requirements of the competitive checklist in Maryland, Washington, D.C., and West Virginia.

In each **of** the three jurisdictions, Verizon is making all 14 checklist items available under the legally binding obligations in its interconnection agreements, and, in some cases, through tariffs. See Lacouture/Ruesterholz MD Decl. 75; LacoutureRuesterholz DC Decl. ¶ 5; LacoutureRuesterholz WV Decl. ¶ 5; see also Maine Order ¶ 43 (concluding that provision of checklist items solely through interconnection agreements is a “legal commitment” that “is sufficient for our section 271 analysis”).”

Verizon also is providing the various checklist items in commercial quantities in each of the three jurisdictions. **As** of September 2002, Verizon had provided competing carriers in Maryland with approximately 250,000 interconnection trunks, 133,000 unbundled loops (including DSL loops and platforms), 110,000 resold lines, 215,000 directory listings, 251,000 ported numbers, and 470 in-service collocation arrangements. See Lacouture/Ruesterholz MD Decl. ¶¶ 13, 46, 86,295,330,342; Brief Att. **A,** Ex. 1. **As** of that same date, Verizon had provided competing carriers in Washington, D.C. with approximately 77,000 interconnection trunks (including tandem trunks that handle tandem switching for northern Virginia and suburban Maryland), 23,000 unbundled loops (including DSL loops and platforms), 14,000 resold lines, 51,500 directory listings, 171,000 ported numbers, and 133 in-service collocation

[12] There is no ongoing litigation under 47 U.S.C. § 252(e)(6) that relates to these approved agreements in the District or West Virginia. In Maryland, the only ongoing litigation under section 252(e)(6) relating to an approved agreement involves a single appeal by WorldCom of the PSC's arbitration decision concerning dark fiber, subloop unbundling, and various UNE rates. See MCI WorldCom Network Servs., Inc. v. Verizon Maryland Inc., Case No. 00-CV-1518 (AMD) (D. Md.).

arrangements. See LacoutureRuesterholz DC Decl. ¶¶ 13, 43, 81, 284, 318, 331; Brief Att. A, Ex. 2. Again, as of that same date, Verizon had provided competing carriers in West Virginia with approximately 34,000 interconnection trunks, 24,000 unbundled loops (including DSL loops and platforms), 13,000 resold lines, 32,000 directory listings, 47,000 ported numbers, and 45 in-service collocation arrangements. See LacoutureRuesterholz WV Decl. ¶¶ 13, 44, 82, 280,315,331; Brief Att. A, Ex. 3.

Verizon provides service to CLECs in the three jurisdictions using operations support systems ("OSS") that this Commission has previously found to be checklist-compliant. First, the Verizon service areas in Maryland, the District, and West Virginia are served by Verizon Maryland Inc., Verizon Washington, D.C. Inc., and Verizon West Virginia Inc., respectively, which historically were part of the Chesapeake and Potomac ("C&P") Telephone Companies. See McLean/Webster Decl. ¶ 13.[13] The other C&P jurisdiction is Virginia. See McLean/Webster Decl. ¶ 13. Since before divestiture, Verizon has served all of the former C&P jurisdictions through a common set of underlying operations support systems. See id. Second, with the enactment of the 1996 Act, Verizon was required to develop new wholesale interfaces and gateway systems for competing carriers, and Verizon has taken part in industry collaborative proceedings supervised by the New York Public Service Commission to help it develop these systems. See id. ¶ 11. Using input from these proceedings, Verizon developed a common set of interfaces and gateway systems across the entire footprint of the former Bell Atlantic (including

[13] When the Bell System was broken apart in 1984, C&P became part of Bell Atlantic, together with the Bell operating companies serving Pennsylvania, New Jersey, and Delaware. Bell Atlantic then merged with " E X (which served New York, Connecticut, Massachusetts, Rhode Island, Maine, Vermont, and New Hampshire) in 1997, and the combined company retained the Bell Atlantic name. In 2000, Bell Atlantic merged with GTE and the combined company became Verizon.

the former C&P territory), and likewise implemented a common set of processes and procedures. See id.

Verizon accordingly provides each of the checklist items in the three jurisdictions in substantially the same manner and using the same processes and procedures that Verizon uses in Virginia, where the Commission found that Verizon satisfies the requirements **of** the Act in all respects. See Lacouture/Ruesterholz MD Decl. ¶¶ 12, 38, 150, 186,203,254,341; Lacouture/Ruesterholz DC Decl. ¶¶ 12, 35, 78, 144, 177, 194,243,330; Lacouture/Ruesterholz WV Decl. ¶¶ 12, 36, 79, 142, 174, 190,239,330; Virginia Order ¶ 1. Indeed, this is not merely a case where the underlying operations support systems used in the two states are the same (in the sense that they are copies of one another). In this case, the underlying operations support systems in Maryland, the District, and West Virginia ***are*** the Virginia systems. **See** McLean/Webster Decl. ¶ 13. And the Commission has already found that these systems "compl[y] with the checklist." Virginia Order ¶ 24. Likewise, Verizon provides the various checklist items in the three jurisdictions using the same interfaces as in Virginia and the other 271-approved states to access the underlying OSS. See McLean/Webster Decl. ¶ **8.** And the Commission has found on ten previous occasions that these gateway systems and interfaces satisfy the requirements of the Act. See Virginia Order ¶ 22; New Hampshire/Delaware Order ¶ 95; Massachusetts Order ¶¶ 50, 70, 90, 95, 97, 102, 114; Pennsylvania Order ¶ 11; Rhode Island Order ¶¶ 58-71; Vermont Order ¶¶ 39-40; Maine Order ¶¶ 35-36; New Jersey Order ¶ 74; New York Order ¶ 82; Connecticut Order ¶ 53.

The significance of all this is straightforward: It establishes a presumption that the manner in which Verizon provides the checklist items in Maryland, the District, and West Virginia likewise meets the Act's requirements. As the Commission has previously held, where an aspect **of** an applicant's checklist showing is "materially indistinguishable" from a showing in another state, the Commission will use its prior determination "as a starting point for [its] review" and "review any new data or information" from the parties only ***"to*** determine whether a different result is justified." First Louisiana Order ¶¶ 1, 3; see also Second Louisiana Order ¶ 56 (where BOC "provides access to a particular checklist item through a region-wide process, such as its OSS, [the Commission] will consider both region-wide and state specific evidence in [its] evaluation of that checklist item").

Moreover, this presumption is buttressed by the findings of the state commissions at issue here. Both the Maryland and West Virginia commissions have found that Verizon satisfies the requirements of the checklist in all respects. See Letter from Felecia L. Greer, Maryland PSC, to William R. Roberts, Verizon (Dec. 17,2002) ("Maryland PSC December 17th Letter") (App. Q-MD, Tab 30) ("On December 16,2002, the Maryland Public Service Commission ("Commission") issued a letter order finding that Verizon Maryland Inc. ("Verizon") is technically in compliance with the $271 checklist."); Letter from Catherine I. Riley, et al., Maryland PSC, to William R. Roberts, Verizon (Dec. 16,2002) ("Maryland PSC December 16th Letter") (App. Q-MD, Tab 28);[14] Letter from James D. Williams et al., West Virginia PSC, to Marlene H. Dortch, FCC (Dec. 13,2002) (App. J-WV, Tab 10) ("The West Virginia Commission . . . concludes that Verizon West Virginia complies with each of the fourteen Checklist Items"). And although the District **of** Columbia PSC has not yet reached a formal

[14] Although the Maryland PSC has found that Verizon complies with the checklist, it also required Verizon to take certain steps that go beyond the requirements of the checklist "in order to meet the public interest standard established by [the Maryland] Commission." Maryland PSC December 17th Letter at 1; see Maryland PSC December 16th Letter at 3-10. As the Maryland PSC has acknowledged, Verizon has agreed to comply with these conditions, and "Verizon now meets the public interest standard established by [the Maryland] Commission." Maryland PSC December 17th Letter at 1; see Letter from William R. Roberts, Verizon, to Felicia L. Greer, Maryland PSC (Dec. 17,2002) ("Verizon December 17th Letter") (App. Q-MD, Tab 29).

determination about Verizon's checklist compliance, Verizon provides the same checklist items in the District using the same systems and processes as in Maryland and West Virginia, which also are the same as in Virginia where this Commission has already found that Verizon satisfies the checklist.

As summarized below, in all three jurisdictions, the presumption that Verizon complies with the checklist is further supported by overwhelming evidence.

First, Verizon's actual performance in providing access to each of the 14 checklist items in all three jurisdictions is excellent across the board. From August through October 2002 — the most recent three-month period for which data are available — Verizon completed on time at least 97 percent, and in most instances 98 or 99 percent or more, of CLECs' interconnection trunks, physical collocation arrangements, unbundled loops (including stand-alone loops, hot cuts, platforms, and DSL-capable loops), and resale orders in all three jurisdictions. See LacoutureRuesterholz MD Decl. ¶¶ 23, 48, 90, 104, 111, 129,229,343; LacoutureRuesterholz DC Decl. ¶¶ 23, 45, 85, 99, 106, 125,218,338; LacoutureRuesterholz WV Decl. ¶¶ 23, 46, 86, 100, 104,124,215,338.

Second, Verizon's systems have undergone independent third-party testing that Verizon passed with flying colors. Verizon's systems in the three jurisdictions were tested by KPMG in Virginia, where the Commission found that such tests provided "meaningful evidence" of Verizon's OSS readiness. Virginia Order ¶ 27; see McLean/Webster Decl. ¶ 15. In addition, Verizon's systems have been subject to an attestation evaluation by PwC, which verified that Verizon uses the same systems, processes, and procedures in Maryland, the District, and West Virginia as it uses in Virginia. See McLean/Webster Decl. ¶ 9. Consistent with the

Commission's prior holdings, therefore, the results of the KPMG tests in Virginia apply with equal force in the three jurisdictions.[15]

Third, Verizon reports its performance in the three jurisdictions under measurements that "track Verizon's performance on functions essential to an open, competitive local market." Massachusetts Order ¶ 237; see Guerard/Canny/DeVito Decl. ¶ 11. The public service commissions in Maryland and the District approved measurements in March 2002 and November 2001, respectively, that are substantially the same as the measurements in effect in Virginia at the time Verizon filed its section 271 application in that state. See Guerard/Canny/DeVito Decl. ¶¶ 13, 24. Both state commissions have subsequently approved new measurements that are substantially the same as the measurements that took effect in New Hampshire and Massachusetts while Verizon's section 271 application in New Hampshire was pending. See id. ¶¶ 15, 25.[16] Verizon likewise reports its performance in West Virginia under measurements that took effect in New Hampshire and Massachusetts during the pendency of Verizon's New Hampshire application. See Guerard/Canny/DeVito Decl. ¶ 23. And, of course, the Commission has found that all of these performance measurements satisfy the Act. See New Hampshire/Delaware Order ¶ 171; Virginia Order ¶ 198

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[15] See, e.g., Rhode Island Order ¶¶ 59-60 (finding that KPMG's test in Massachusetts "is relevant and should be considered in our evaluation of Verizon's OSS in Rhode Island"); Kansas/Oklahoma Order ¶¶ 3,108 (concluding that an attestation by Ernst & Young that the systems in Kansas and Oklahoma were the same as those used in Texas "provides reliable evidence that the *OSS* systems in Texas are relevant and should be considered in **our** evaluation of SWBT's OSS in Kansas and Oklahoma"); Vermont Order ¶ 40 (relying on evidence about Massachusetts *OSS* in Vermont); Maine Order ¶ 36 (same); New Hampshire/Delaware Order ¶ 98 (same).

[16] In Maryland, these new measurements were approved in October 2002 and will take effect with the January 2003 data month. See Guerard/Canny/DeVito Decl. ¶ 16. In the District, these new measurements were approved in June and September of 2002, and took effect with the September 2002 reporting month. See id. ¶ 25.

Finally, Verizon is or will be subject to comprehensive Performance Assurance Plans in each of the three jurisdictions that mirror the plans in Verizon's 271-approved states. Each of the Plans places an amount at risk that is proportionately the same as the amounts at risk in New York and Virginia, see Guerard/Canny/DeVito Decl. ¶¶ 90-94, 116-117, and that the Commission has found provides "assurance that the local market will remain open after Verizon receives section 271 authorization," Massachusetts Order ¶ 236. Consequently, these Plans provide added assurance that Verizon will continue to provide high-quality service to competing carriers.

Despite all this, competitors still will likely claim that this Application should be denied. Significantly, however, CLECs raised very few issues during the course of the state proceedings in the three jurisdictions regarding Verizon's compliance with the checklist. And the few issues they did raise already have been addressed by the public service commissions in those three jurisdictions and often by this Commission in approving Verizon's prior applications. In addition, CLECs raised a few complaints that were either individual carrier disputes that are not relevant to this proceeding or requests that Verizon be required to modify its checklist offerings in ways that go beyond the requirements of the Act.

In any event, the Commission repeatedly has made clear that it will evaluate a BOC's performance "based on the totality of the circumstances," and "an apparent disparity in performance for one measure, by itself, may not provide a basis for finding noncompliance with the checklist," Texas Order ¶ 58, if "the performance demonstrated by all the measurements as a whole" shows parity, Kansas/Oklahoma Order ¶ 32. Similarly, the fact that a measure may appear to reflect such a disparity does not necessarily mean that the applicant has not **complied** with the checklist if the disparity has "little or no competitive significance" or may be traced to